IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

SATURDAY, THE 1ST DECEMBER 2007 / 10TH AGRAHAYANA 1929

WP(C).No. 24231 of 2004(I)

PETITIONER:

J.KOCHUTHRESSIA, W/O. A.M. ANTONY,
AGED 52 YEARS, HIGH SCHOOL ASSISTANT (MALAYALAM),
C.M.GOVERNMENT HIGH SCHOOL, KUTTOOR,THRISSUR DIST.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:
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1. **THE STATE OF KERALA,**
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
GENERAL EDUCATION DEPARTMENT, SECRETARIAT,
TRIVANDRUM.

2. **THE ACCOUNTANT GENERAL (A & E), KERALA,**
TRIVANDRUM.

3. **THE DEPUTY DIRECTOR OF EDUCATION,**
THRISSUR.

4. **THE HEADMISTRESS,**
C.M. GOVERNMENT HIGH SCHOOL,KUTTOOR,THRISSUR DIST.

BY GOVERNMENT PLEADER SRI. N. SUDHA DEVI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 1/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.24231 OF 2002

APPENDIX

EXT.P1: COPY OF STATEMENT OF FIXATION OF THE PETITIONER.

EXT.P2: COPY OF AUDIT OBJECTION OF R2.

EXT.P3: COPY OF G.O.(P) NO.281/89/(256)/FIN. OF THE GOVERNMENT.

EXT.P4: COPY OF CIRCULAR NO.54/93/(138)/FIN. OF THE GOVERNMENT.

EXT.P5: COPY OF CIRCULAR NO.54/93/(138)/FIN. OF THE GOVERNMENT.

EXT.P6: COPY OF THE JUDGMENT IN O.P.NO.23261/1998-T OF THIS HON'BLE COURT.

EXT.P7: COPY OF THE JUDGMENT IN W.A.NO.3208/2000-A

EXT.P8: COPY OF JUDGMENT IN O.P.NO.1049/1995.

EXT.P9: COPY OF THE JUDGMENT IN W.A. NO.1578 OF 2003.

EXT.P10: COPY OF ANNEXURE III OF G.O. (P) NO.3000/98/FIN. DATED 25.11.1998 (RULES FOR FIXATION OF PAY IN THE REVISED SCALES)

EXT.P11: COPY OF DECISION REPORTED IN 1998 (2) K.L.T. 873

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No.24231 OF 2004

Dated this the 1st day of December, 2007

JUDGMENT

The petitioner challenges Ext.P2 audit objection, whereby senior grade and selection grade granted to the petitioner have been sought to be revised and her pay refixed. The petitioner filed this writ petition believing that the audit objection in Ext.P2 is in respect of counting of her provisional service for the purpose of fixation of pay.

2. Now Accountant General has filed a counter affidavit stating that provisional service has been counted for the purpose of grades, but Ext.P2 audit objection was raised because the fixation of pay at Rs.5,750/- on 1.3.97 was in violation of Rule 5 of Rules for fixation of pay in 1997 Pay Revision Orders and its effect on pay fixed on 1.7.98 and 1.7.2001.

3. I have considered the rival arguments. The objection against the fixation of pay of the petitioner as contained in Ext.P2 objection is as follows:

> "The regular service of the incumbent commenced on 31.1.81 and had a total provisional service of 2 years 8 months and 29 days. Hence total No. of completed years for calculating weightage as on 1.3.97 is 18 years and her pay should have revised from 1900 + 30 to Rs.5625/- (5000-8150). Instead, it was revised to Rs.5750/- w.e.f. 1.3.97 and this is not in order. She was sanctioned Sr.grade promotion w.e.f. 1.7.98 and pay fixed at Rs.6275/- (5500-9075) instead of Rs.6100/- and again selection grade as on 1.7.2001 and pay raised to Rs.7025/- (6500-10550) instead of Rs.6850.
>
> The above mistake may be rectified and excess payment up to 30.4.2004 got regularized."

Absolutely no reason whatsoever is mentioned therein as to how the fixation of pay of the petitioner is erroneous. In the counter affidavit of the Accountant General what is stated in support of Ext.P2 objection is this:

> "The above W.P.(C) filed seeking an order call for the records relating to Exts.P2 and P5 Circular and quash the originals of the same by issuing of a writ of certiorari and consequential reliefs. It is to be submitted that as per Ext.P1 the Grade Promotion was sanctioned

> w.e.f. 1.7.01 on completing 23 years of service reckoning provisional service rendered by the petitioner and pay was fixed with respect to the existing pay in the lower scale. Ext.P2 Audit Objection was on the erroneous fixation of pay at Rs.5, 750/ on 1.3.97 violating Rule 5 of Rules for fixation of pay in 1997 Pay Revision Orders and its effect on pay fixed on 1.7.98 and 1.7.01. Hence Ext.P2 is legally sustainable."

There also absolutely no reason whatsoever is mentioned except that a fixation of pay violates Rule 5 of Rules of Fixation of Pay. As to how the fixation of pay violates Rules 5 is not mentioned.

4. In the above circumstances, both the audit objection and the counter affidavit are as vague as possible. Accordingly, I am inclined to quash Ext.P2 audit objection on that ground alone. I do so. Consequently, the original fixation of pay of the petitioner would stand.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE

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